

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE  
March 2006 Session

**IN THE MATTER OF: T.M., M.M., and S.M.**

**STATE OF TENNESSEE, DEPARTMENT of CHILDREN'S SERVICES v.  
RANDY McCLURE and KATHY McCLURE**

**An Appeal from the Juvenile Court for Franklin County  
Nos. J03439 and J00331     Thomas C. Faris, Judge**

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**No. M2005-02433-COA-R3-PT - Filed on July 20, 2006**

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This is a termination of parental rights case. The Tennessee Department of Children's Services filed a petition in the Franklin County Juvenile Court to terminate the parental rights of the parents of three young girls, alleging that the parents failed to protect the girls from numerous instances of severe sexual abuse. After a hearing in which evidence was presented that the parents knew of the abuse and failed to take appropriate action, the juvenile court entered an order terminating the parents' parental rights. The parents now appeal. We affirm, finding clear and convincing evidence to support findings that (1) termination on the grounds of knowing failure to protect the children from severe sexual abuse had been established, (2) efforts to reunify the children with the parents were not required under the circumstances, and (3) termination of parental rights was in the best interest of the children.

**Tenn. R. App. P. 3; Judgment of the Juvenile Court is Affirmed**

HOLLY M. KIRBY, J., delivered the opinion of the Court, in which ALAN E. HIGHERS, J., and DONALD P. HARRIS, SP.J., joined.

Glen A. Isbell, Winchester, Tennessee, for Appellant/Respondent Randy McClure.

Trudy McKelvey Edwards, Winchester, Tennessee, for Appellant/Respondent Kathy McClure.

Paul G. Summers and Joshua D. Baker, Nashville, Tennessee, for Appellee/Petitioner State of Tennessee, Department of Children's Services.

## OPINION

The parents in this case, Respondent/Appellants Randy McClure (“Father”) and Kathy McClure (“Mother”) first became sexually involved with one another when Father was twenty-eight years old and Mother was fourteen years old.<sup>1</sup> Eventually, the parents married and had the three minor children at issue in this case, daughters T.M. (d.o.b. April 13, 1995), S.M. (d.o.b. November 2, 1998), and M.M. (d.o.b. August 27, 1996).

The family lived in Franklin County, Tennessee. Father was an alcoholic and Mother used marijuana, and their employment was sporadic. The family originally came to the attention of Petitioner/Appellee Tennessee Department of Children’s Services (“DCS”) due to concerns about the children’s home environment, such as repeated episodes of head lice and truancy, and unsanitary conditions in the home. The girls were taken into protective custody as dependent and neglected children in June 2003, with a goal of reunification with the parents. Meanwhile, DCS provided in-home counselors to assist the parents in cleaning the home, eradicating the head lice, managing money, keeping food in the home, and other basic necessities. DCS also provided transportation for the parents’ visits with the children.

While the girls were in foster care in State custody, they began to disclose numerous instances of severe sexual abuse at the hands of several men who were acquaintances of the parents; the children indicated that the parents did not actively participate in the abuse, but were aware of it and failed to protect them from it. As numerous counseling sessions with the girls yielded more revelations about the extent of the sexual abuse, the DCS permanency goal for the children changed from reunification to adoption, with the belief that the parents would not protect the children, and that returning the girls to their parents’ custody was not in the children’s best interest.

On October 13, 2004, DCS filed a petition in the Juvenile Court of Franklin County, Tennessee, to terminate the parental rights of both Mother and Father. The petition also sought a court order awarding custody, control, and full guardianship of the girls to DCS. The petition noted that DCS had had temporary custody of the girls since June 2003, and that they had been in foster care since that date.

The first ground for termination alleged in the petition was that Mother and Father subjected the children to severe sexual abuse in their home and/or failed to protect the children from such abuse. The petition asserted that the severe abuse excused DCS from any requirement that it utilize reasonable efforts to preserve or reunify the family, pursuant to Tennessee Code Annotated section 37-1-166(g). As the second ground for termination, the petition alleged that Mother and Father were incompetent to adequately provide for the care and supervision of the children because they each suffered from an impaired mental condition that was likely to remain. Next, DCS asserted the

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<sup>1</sup> Mother’s mother, the children’s grandmother, was married to Father’s brother. Father was drunk when the sexual relationship between Mother and Father was consummated, and it led to Father’s conviction and incarceration for statutory rape. The parties later married when Father was released from jail, when Mother was seventeen years old.

ground of “persistent conditions,” that is, the children had been removed from the parents’ home by order of the court, for a period of six months, and the conditions leading to removal persisted. The petition alleged that these conditions remained relevant but had “been minimized given the nature and circumstances of this petition.” “The parents’ compliance with the [parenting] plan is now not of paramount importance,” the petition continued, “and should the Court find by clear and convincing evidence that the allegations in the petition are true, then the children should not be returned.” Moreover, the petition alleged that a continuation of the parent-child relationship would greatly diminish the children’s chances of early integration into a stable and permanent home.

In November 2004, Gwynn Owens, a DCS case manager, filed a report summarizing the girls’ status:

[The three girls] came into custody on 6-12-2003 as dependent/neglected children. Until July, 2004, the children had been placed together in a level 2 foster home. On 7-16-04, the Crisis Response Team was called when [T.M.] threatened to harm herself. [T.M.] was then taken to Cumberland Hall Primary Treatment Center to stabilize and evaluate her behavior. Upon release from the PTC, [T.M.] was taken to Valley Hospital, a level 4 placement, to address the suicidal ideations. [T.M] was diagnosed as being bipolar with psychotic features. Allegations have been made that require DCS to file for Termination of Parental Rights. All three children are receiving intense counseling and have admitted that they do not feel safe from further abuse if allowed to live with their parents. The CPS Special Assist Unit is currently investigating the reported sexual abuse.

The report stated that, after eleven months, Father had finally completed a four-week alcohol and drug treatment program, but did not attend recommended aftercare sessions or Alcoholics Anonymous meetings. Neither parent was employed.

The trial was held on August 8, 12 and 29, 2005. DCS called Father as its first witness. Father testified that, when asked about the identity of persons who may have perpetrated sexual acts on the parties’ three daughters, he had identified three grown men: J. B. Davis and Terry Stevens, two acquaintances of the parents; and Aaron Easlick, Mother’s cousin. At the time of trial, Easlick was incarcerated for rape. Father admitted that he had, at various times, left the girls alone with each of these men. Mother and Father would host parties in their apartment, during which Mother would smoke marijuana and Father would drink until he passed out.<sup>2</sup> Aaron Easlick and Terry Stephens attended these parties. Father professed to have initially not known of the sexual abuse of his daughters. However, he admitted that, once he learned of the sexual abuse, he and Mother did not report the abuse because they were afraid that their daughters would be taken from their custody. Father said that he had suffered from alcoholism for an extended period of time. He claimed that

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<sup>2</sup>The parents’ landlord, Patsy Pickle, corroborated that Mother and Father would host loud parties at which there seemed to be a lot of drinking.

he had gained control of his drinking problem. Father conceded that he had been unemployed for a couple of years. At the time of the trial, he remained unemployed.

Mother also testified. She admitted that the children had suffered from head lice for an extended time and that concerns about their home environment prompted the State to intervene. Mother acknowledged that Father was a significant drinker; she estimated that he drank a twelve pack of beer probably two times a week. When asked whether, and how often, she smoked marijuana, Mother responded, "Just when I could get it and I wouldn't do it all the time. I mean, I would do it every now and then." During most of this time, Mother said, she and Father had essentially no income. Both Mother and Father had applied for disability benefits, but neither had qualified for them. By the time of trial, Mother said, they had no income whatsoever: "None. No AFDC, WIC, no food stamps, no nothing." She said that they bought food and beer with money donated from family members.

Mother described her marital relationship with Father as a good one. She also described her relationship with the girls as "very good," and said that she cared for the children until they were removed from the home, providing them with food, clothing, and other necessities.

Like Father, Mother admitted that she was aware of at least one incident of sexual abuse, committed by acquaintance J. B. Davis, but was reluctant to inform authorities of the abuse for fear of losing the children. After Mother learned of the sexual abuse of the girls, she testified, she was more cautious about who the girls had contact with. However, she said, the apartment complex in which the family lived did not have washing machines for the family's clothes. Consequently, in order to wash clothes, the entire family would go to the home of one of the alleged perpetrators, Terry Stevens, to do laundry. When they went to Terry's home, Mother testified, she, Father, and the girls would spend the night there, sleeping on the floor of Terry's house.

Because the initial concerns were about the children's truancy and environmental issues in the home, several witnesses testified about efforts to work with the family on these problems. For example, the court heard testimony from Vickie McBee, an employee of Southeast Community Service Agency, a subcontractor for DCS. McBee worked with the family for an extended time. She helped the family eradicate the girls' head lice, and aided them with truancy, managing money, keeping food in the house, and other domestic necessities to maintain their home. McBee indicated that the children's home environment was unsanitary and always in disarray and in need of cleaning, and the chronic lack of income meant that providing food for the children was difficult.

Much of the testimony at the trial, however, focused on the sexual abuse of the children. Pamela Hood, a Child Protective Service case manager, was assigned to work with the family primarily to establish plans for dealing with house cleanup, lice treatments, Father's drinking, Mother's marijuana use, and child supervision. During the course of her work with the family, Hood said both T.M. and M.M. disclosed to her that they had had sexual contact with the family friend J.B. Davis. Hood told the court that the two girls "disclosed that Mr. J.B. Davis touched them like on

the butt and their private parts. [T.M.] disclosed that J.B. put his hand like down in her panties, but [M.M.] disclosed that it was on the outside.” Hood testified:

Both children told me that their daddy was mad and was going to kill J.B. Davis. The eldest—[T.M.] said that her parents had gone to the store when J.B. touched her inappropriately, and [M.M.] said that her parents were outside the apartment building [when she was touched].

Based on these allegations, Hood said that the matter was referred to the authorities for a criminal investigation.

The trial court also heard testimony from Gwynn Owens, the home county case manager initially assigned to work with the family toward reunification. She explained that, initially, reunification appeared plausible because the problem was perceived as a matter of cleaning up the home environment. Before long, however, indications of the sexual abuse began to surface. When asked whether the girls exhibited any unusual behavior, Owens stated, “Well, the children were perpetrating on one another.” She recounted an incident in which the girls were “playing boyfriend/girlfriend” and acting out sexually towards each other. Consequently, Owens testified, the girls were moved into three separate foster homes.

Owens also testified that, after the children were taken into protective custody, one of the girls, M.M., “talked about her boyfriend Terry a lot.” Owens recalled that, “[M.M.] just said that [Mother and Father] were washing clothes at Terry’s home and that mom and dad told her to sleep with Terry.” This was separately corroborated to Owens by S.M.

Owens said that T.M. often said that she wanted to go home, but S.M. and M.M. said that they did not. T.M., seven years old at the time of the trial, received treatment at an adolescent mental health facility for “suicidal ideations” and threats to hurt herself. While T.M. was hospitalized, Owens took Mother to visit her. Father did not visit T.M. during her stay at the hospital.

A member of the DCS special investigations unit, Al Tucker, testified that he observed another DCS employee, Collette Young, interview the three girls after the sexual abuse came to light. Tucker testified that M.M. said that “Terry put his private in her private on the couch . . . and J.B. touched her private with his hand.” After M.M. told Mother about these incidents, “the mother told her not to do it any more.” Tucker also said that S.M. disclosed that Terry touched her inappropriately through her clothes. S.M. told Mother about this incident, and Mother did not respond. Tucker explained that, because the girls were acting out sexually towards each other while in foster care, they were removed from the foster home.

The most comprehensive testimony came from Dr. Martha Biller, a senior psychological examiner with over twenty-two years of experience in clinical psychology. Dr. Biller testified that the girls initially received the general counseling afforded to all children in State custody; the counseling intensified after the sexual abuse issues began to surface. The issue of sexual abuse first

arose, she said, when M.M. told Dr. Biller that she liked boys and that Terry Stevens was her boyfriend. When asked how old she thought Terry was, M.M. told Dr. Biller that she thought Terry was about nineteen or twenty years old.

During the course of Dr. Biller's interview with M.M., M.M. disclosed that J.B. Davis had touched her sexually and that she had also witnessed J.B. Davis touch T.M. sexually. M.M. drew a picture for Dr. Biller of M.M. and Terry Stevens on a couch. Dr. Biller testified that M.M. told her that Terry Stevens "got up and put his clothes on quietly after he touched her and had sex with her." Dr. Biller said that M.M. drew an "X" on the drawing to indicate that her parents, Mother and Father, were in another room when this was happening. "She said her mother and father [were] in a different room . . . and that it was nighttime and all they said to her was, 'don't ever sleep with him again' " when she told them about the incident. In her notes on a counseling session with T.M., Dr. Biller quoted T.M.:

Terry was with me in the back room. There is no furniture. We laid down on the pillows. He laid down with me. The covers are blue, but they smell like nobody used to wash them. Mom and Dad are outside talking with Grandma on the porch. They know where I am because they sent me inside so I wouldn't listen to what they were saying. They knew I was going to lay down with Terry.

Dr. Biller explained that a drawing done by T.M. in the session shows Terry Stevens touching T.M. in her crotch. T.M. told Dr. Biller that she told her parents about Terry's actions, and their only response was, "Oh, brother," and then, "Don't sleep with him again." In another session, T.M. described seeing Terry and M.M. sleeping naked on his couch together.

In another counseling session with T.M., Dr. Biller testified T.M. indicated that "six or seven men whom she described were grown up touched her with their weener and their hands and that her father had said, 'come and touch my daughters.' " M.M. related a similar incident, drawing an "x" in her crotch area to show where the men touched her with "their hands and weeners."

During the course of the counseling sessions, Dr. Biller said each of the three girls relayed numerous incidents of sexual abuse. She explained, "Each one of the girls independently suggest that they directly told their parents what was going on, that the parents knew." She said that there were numerous instances with several men, some named and some unnamed, involving each of the girls. Dr. Biller emphasized the independence of the children's disclosures; the girls made "disclosures which are similar and yet specific to them," corroborating each other's allegations in independent sessions. The trial concluded on August 29, 2005.

On September 28, 2005, the trial court entered its findings of fact and conclusions of law. The findings of fact included the following: that the children had been in state custody for at least six months; that DCS made reasonable efforts to prevent removal and to assist Mother and Father in remedying the concerns about the children's home environment, including Father's alcoholism; that the goals of the DCS permanency plan, and any eventual compliance therewith, were irrelevant

to the issue of child abuse; that J.B. Davis and Terry Stevens were the likely perpetrators of the sexual abuse of the children, and Father's friend, Aaron Eslick, was in prison for rape; and that Father admittedly would pass out at parties from drinking, leaving "three young girls at risk to unsavory persons who were allowed at his residence intoxicated and otherwise impaired or altered."

The trial court stated:

[U]pon revelation of a sexual perpetration upon one of the children to the parents, . . . the parents did not inform the authorities for proper investigation. The court finds that the parents used as an excuse that they were afraid that the children would be taken from them if they did. The court finds that this decision was not in the best interests of the children and a matter of this magnitude should have been disclosed immediately.

The trial court noted that both Father and Mother had been turned down for disability benefits, and that neither was employed for any significant time period in the past. The trial court pointed out that Mother had admitted that Father was violent towards her.

The trial court commented specifically on the testimony of Dr. Biller, the psychologist:

The court again finds the testimony of Dr. Martha Biller to be the most compelling testimony that was heard at this trial. Dr. Biller was qualified as an expert and had numerous interviews with the children. She testified that in her expert opinion that the children had been sexually abused and that the parents knew of it. The court finds that the children have been abused and that the parents knew of it and failed to protect the children. The court finds that Dr. Biller's findings were based upon her professional training, experience, and conversations and observations of the children's demeanor and drawings by the children. Dr. Biller testified that the children had no boundaries. She disclosed that the children's stories were consistent and that they made disclosures regarding two different perpetrators, who were friends of the family. The court adopts these last two sentences as findings of fact. The court also finds that the disclosures of the children were indicative that the parents knew that this activity was occurring and did nothing to stop the activity.

Thus, the trial court expressly found that the children had been subjected to severe sexual abuse and that Mother and Father knew of it and took no steps to protect them.

Under these circumstances, the trial court found, reunification with the parents was not in the children's best interest:

This court finds that it is not in the best interests of the minor children to reunify the parents with them in that their past conduct and activities will take the children many years to recover from. The court takes note and finds that the children had to be

separated from each other due to sexual perpetration upon each other . . . . The court notes observations of self-mutilation exhibited, and the ‘no boundaries’ observed by Dr. Biller in regard to how these children were brought up in the care of their parents.

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The court finds that [Mother and Father] are not able to make any adjustments of circumstances, conduct, or conditions to make it safe and in the children’s best interests to be placed in the care of the parents. The [parents] are dysfunctional, and live a lifestyle that is detrimental to the well being of the children.

The trial court made the following conclusions of law:

The court makes a conclusion of law by clear and convincing evidence that the parents committed severe abuse against the children . . . . Specifically, the parents have knowingly failed to protect the children from activities and persons that brought about severe abuse. The parents had actual knowledge of these persons and this abusive activity. . . . The defendants knew of this activity, or, at the minimum, they knew that their activity was in deliberate disregard of their children’s safety.

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The court makes a conclusion of law by clear and convincing evidence that it is in the best interest of said children and the public that all of the parental rights of the defendants to said children be forever terminated and that complete custody, control, and full guardianship of the children should be awarded to [DCS] with the right to place the children for adoption and to consent to any adoption in loco parentis.

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The court therefore finds as a conclusion of law by clear and convincing evidence that [DCS] has proved the existence of at least one of the statutory grounds for termination, that being severe abuse, and that terminating the parents’ parental rights is in the children’s best interests. . . . The court respectfully finds that reasonable efforts [to reunite the children with Mother and Father] as described in T.C.A. Section 37-1-166(g)(2) would not be required under T.C.A. Section 37-1-166(g)(4) under circumstances of abuse such as are present in this case. Although the court made no previous finding of aggravated circumstances, the court does not find additional efforts to be statutorily necessary due to the grounds for termination that were alleged by [DCS]. . . . The court finds as a conclusion of law that [DCS] in certain well-defined ‘aggravated circumstances,’ may reasonably forego efforts to reunify the family and immediately begin proceedings to terminate the parents’ parental rights.

Based on the foregoing, the trial court ordered that the parental rights of both Mother and Father be terminated. From this order, Mother and Father both appeal.

On appeal, Mother and Father insist that the trial court erred in finding, by clear and convincing evidence, that DCS made reasonable efforts to reunite the children with them. Moreover,



Mother argues that the trial court erred by ruling that reasonable efforts were not required. Next, Mother and Father assert that the trial court erred in finding, by clear and convincing evidence, that they were guilty of severe abuse by knowingly failing to protect the children. Finally, both assert that the trial court erred in concluding that it was in the best interest of the children to terminate their parental rights.

It is well settled that parents have a fundamental right to the care, custody, and control of their children. *See, e.g., In re Swanson*, 2 S.W.3d 180, 188 (Tenn. 1999); *In re S.M.*, 149 S.W.3d 632, 638 (Tenn. Ct. App. 2004). Nevertheless, that right is not absolute. Parental rights may be terminated if one of several statutory grounds for termination has been established by clear and convincing evidence. *Jones v. Garrett*, 92 S.W.3d 835, 838 (Tenn. 2002); *In re Drinnon*, 776 S.W.2d 96, 97 (Tenn. Ct. App. 1988); T.C.A. § 36-1-113(c)(1) (2005); *see In re D.L.B.*, 118 S.W.3d 360, 367 (Tenn. 2003). Furthermore, the trial court must find by clear and convincing evidence that termination of the parents' rights is in the child's best interest. T.C.A. § 36-1-113(c)(2). The evidentiary standard of clear and convincing evidence means that the fact-finder has no serious or substantial doubt about the truth of the allegations. *In re Valentine*, 79 S.W.3d 539, 546 (Tenn. 2002). This heightened standard of proof prevents unwarranted interference with fundamental parental rights. *In the Matter of M.W.A., Jr.*, 980 S.W.2d 620, 622 (Tenn. Ct. App. 1998). Moreover, on appeal, the trial court's findings regarding the credibility of trial witnesses are accorded considerable deference. *McCaleb v. Saturn Corp.*, 910 S.W.2d 412, 415 (Tenn. 1995). The trial court's legal conclusions are reviewed *de novo* and are not entitled to any presumption of correctness. *Union Carbide Corp. v. Huddleston*, 854 S.W.2d 87, 91 (Tenn. 1993).

The termination of parental rights must be premised upon one of several grounds set out in the governing statute. T.C.A. § 36-1-113(g) (2005). One of the grounds set forth states that parental rights may be terminated if the parent has committed "severe child abuse" within the meaning of the statute. *Id.* § 36-1-113(g)(4). The definition of "severe child abuse" contemplates not only affirmative acts of abuse but also the knowing failure to protect a child from such abuse:

- (A) The knowing exposure of a child to or the knowing failure to protect a child from abuse or neglect that is likely to cause great bodily harm . . . ;
- (B) Specific brutality, abuse or neglect towards a child that in the opinion of qualified experts has caused or will reasonably be expected to produce severe psychosis, severe neurotic disorder, severe depression, severe developmental delay or retardation, or severe impairment of the child's ability to function adequately in the child's environment, and the knowing failure to protect a child from such conduct;
- (C) The commission of any act towards the child prohibited by §§ 39-13-502 – 39-13-504 [aggravated rape, rape, and aggravated sexual battery], 39-13-522 [rape of a child], 39-15-302 [incest], and 39-17-1005 [especially aggravated sexual exploitation of a minor] *or the knowing failure to protect the child from the commission of any such act towards the child* . . .

T.C.A. § 37-1-102(b)(21)(A)–(C) (2005) (emphasis added). Here, the evidence indicated that the children had been subjected to aggravated sexual battery, T.C.A. § 39-13-504(a)(4), and rape of a child, T.C.A. § 39-13-522(a). Section 36-1-113(g)(4)(C) would therefore be applicable if clear and convincing evidence showed that the abuse occurred and that there was a “knowing failure to protect a child from the commission” of such acts of severe child abuse. *See State v. NFGWP*, 2002 WL 1751186, at \*2–3 (Tenn. Ct. App. July 29, 2002) (ruling that a mother’s knowing failure to protect her child from abuse constituted a sufficient ground to terminate the mother’s parental rights).

Here, the evidence from several witnesses, in particular Dr. Biller, taken from interviews with all three girls over the course of numerous interactions with them individually and together, showed horrifying patterns of extreme sexual abuse at the hands of an array of male relatives and acquaintances. On appeal, Mother and Father appear to argue that the abuse may not have occurred, emphasizing minor inconsistencies in their daughters’ statements. And yet the children’s graphic descriptions of the men’s behavior and the setting of the abuse were consistent with one another and, indeed, consistent with the parents’ testimony about the place and times their daughters were left vulnerable to the same men named by the girls. The trial judge fully credited this testimony, and we see no error in this. According appropriate deference to the trial court’s credibility determinations, the trial court’s findings that the children were subjected to repeated acts of severe abuse are well supported by clear and convincing evidence.

Mother and Father also question on appeal the trial court’s finding that both of them knowingly failed to protect their daughters from this abuse. Again, the evidence from the witnesses, especially Dr. Biller, was that the parents were clearly aware of the repeated abuse, indeed, that the girls told the parents of it, and their response was to say “Oh, brother,” and “Don’t ever sleep with him again.” The trial court described Dr. Biller’s testimony as compelling, and we cannot disagree. With appropriate deference to the trial court’s findings on credibility, we find that there is clear and convincing evidence in the record to prove a “knowing failure to protect” these children from repeated severe sexual abuse.

Mother and Father also argue that DCS failed to make reasonable efforts to make it possible for the children to return home, as required under Tennessee Code Annotated section 37-1-166(b). Indeed, when the children were initially removed from the parents’ custody, the primary problems appeared to be the cleanliness of the home and the parents’ substance abuse. At that point, DCS provided in-home assistance as well as counseling. The goal of reunification of the family remained in place when one instance of sexual abuse came to light, based on the belief that it may have been an isolated incident. As the counseling sessions with the girls continued, however, and the magnitude of the sexual abuse became apparent, DCS essentially ceased its efforts toward reunification and the goal became adoption.

Clearly this decision was warranted under the facts and under the law. Under Tennessee Code Annotated § 37-1-166(g)(4)(A), reasonable efforts toward returning the child to the parents’

home are not required if the court determines that the child has been subjected to severe child abuse.<sup>3</sup> As grounds for the termination of the parental rights of Mother and Father, the trial court found that the children had been subjected to severe child abuse as defined under Section 37-1-102(21). We have determined that this finding was supported by clear and convincing evidence. Therefore, under section 37-1-166(g)(4)(A), reasonable efforts to reunify the children with Mother and Father were not required. Accordingly, this argument must be rejected.

The third and final issue for our review is whether the trial court erred in finding by clear and convincing evidence that termination of the parental rights was in the children's best interest, as required under the applicable statute. *See* T.C.A. § 36-1-113(c)(2). Here, the record shows that the parties' young daughters were repeatedly subjected to severe sexual abuse at the hands of the parents' acquaintances, while the parents stood by or, at times, even encouraged the molestation. The record contains no indication that either Mother or Father accepted responsibility for utterly failing in their duty to protect these vulnerable children from such horrors. The trial court rightly observed that it "will take the children many years to recover from" the abuse they suffered. Under these circumstances, we find that the trial court's finding that termination of the parental rights of both Mother and Father was in the children's best interest is well supported by clear and convincing evidence.

The decision of the trial court is affirmed. Costs associated with this appeal are taxed against the Appellants Randy McClure and Kathy McClure, and their sureties, for which execution may issue, if necessary.

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HOLLY M. KIRBY, JUDGE

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<sup>3</sup>Tennessee Code Annotated § 37-1-166(g)(4)(A) states:

(4) Reasonable efforts of the type described in subdivision (g)(2) [to preserve and reunify the family] shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction has determined that:

(A) The parent has subjected the child that is the subject of the petition or any sibling . . . to aggravated circumstances as defined in § 36-1-102;. . .

T.C.A. § 37-1-166(g)(4)(A) (2005). Section 36-1-102(9) defines "aggravated circumstances" as including "severe child abuse, as defined at § 37-1-102." T.C.A. § 36-1-102(9) (2005). As set forth above, the term "severe child abuse" includes the knowing failure to protect a child from such abuse. T.C.A. § 37-1-102(21).